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Plaintiff, In Pro Per

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

STEPHEN CHAPMAN,
Plaintiff,

v .

HORACE MANN PROPERTY &
CASUALTY INSURANCE
COMPANY et al

Defendant(s)

Case No. 2:24-CV-10546-MWF-BFM
District Judge: Michael W. Fitzgerald:

**PLAINTIFF'S NOTICE OF LACK OF
SUBJECT-MATTER JURISDICTION &
REQUEST FOR SUA SPONTE
DISMISSAL UNDER FRCP 12(H)(3),
MOTION TO STRIKE DEFENDANT'S
NOTICE OF REMOVAL UNDER FRCP
12(F), AND MOTION FOR
SANCTIONS UNDER FRCP 11**

**State Motion Hearing: 03/13/2025
Matter Stayed (State): 01/07/2025**

Dated: 01/29/2025

**TO THE HONORABLE MICHAEL W. FITZGERALD AND ALL
PARTIES AND THEIR ATTORNEYS OF RECORDs:**

Plaintiff **Stephen R. Chapman**, in **pro se**, submits this Notice under

Federal Rule of Civil Procedure 12(h)(3), requesting the Court **sua**

PLAINTIFF'S NOTICE OF LACK OF SUBJECT-MATTER JURISDICTION & REQUEST FOR SUA SPONTE
DISMISSAL UNDER FRCP 12(H)(3) AND MOTION TO STRIKE DEFENDANT'S NOTICE OF REMOVAL
UNDER FRCP 12(F) - 1

1 **sponte dismiss this case for lack of subject-matter jurisdiction, a**
2 **Motion to Strike Defendant's Notice of Removal and All Federal**
3 **Filings under FRCP 12(f), and a Motion for Sanctions under FRCP**
4 **11 due to Defendant's bad faith litigation conduct.**

9 **I. INTRODUCTION**

10 This Court **lacks subject-matter jurisdiction** over this case because
11 **removal was procedurally defective and never perfected under 28**
12 **U.S.C. § 1446(d). The State Court has never relinquished jurisdiction,**
13 rendering all federal filings **void ab initio** (null from the outset). Pursuant to
14 **Steel Co. v. Citizens for a Better Environment, 523 U.S. 83, 94 (1998),**
15 this Court **must resolve jurisdiction before taking any further action.**

16 Additionally, under **FRCP 12(f)**, Plaintiff moves to **strike**
17 **Defendant's Notice of Removal and all subsequent federal filings as**
18 **redundant, immaterial, and improper** given the defective removal.
19 Further, under **FRCP 11**, Plaintiff seeks sanctions against **Defense**
20 **Counsel** for filing a **frivolous and procedurally improper removal in bad**
21 **faith**, wasting judicial resources, and attempting to mislead the court.
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II. FACTUAL BACKGROUND

1. **Defendant filed a Notice of Removal in federal court on 12/06/2024 but delayed filing notice in state court until 01/07/2025 (31 days later), in violation of 28 U.S.C. § 1446(d).**
2. **State Court has never relinquished jurisdiction and has scheduled a hearing for 03/13/2025 to address Plaintiff's Motion to Strike and Remand.**
3. **Defendant's federal filings were made before state court received any notice of removal, rendering all actions taken in this Court ultra vires.**

III. LEGAL ARGUMENT

A. The Court Lacks Jurisdiction Because Removal Was Procedurally Defective

- **28 U.S.C. § 1446(d) requires that removal is not effective until notice is properly filed in state court.**
- **Since Defendant failed to timely file the removal notice in state court, the State Court's jurisdiction remains intact.**
- **Meyer v. Health Mgmt. Assocs., Inc., 841 F. Supp. 2d 1262, 1265 (S.D. Fla. 2012) confirms that a delay in state court notice invalidates removal.**

B. Ultra Vires Federal Proceedings Must Be Stricken

- **Federal courts cannot exercise jurisdiction when removal was not properly effectuated.**
- **Under Grupo Dataflux v. Atlas Global Grp., 541 U.S. 567, 571 (2004), jurisdiction must exist at the time of removal, or the case must be dismissed.**
- **All federal actions taken in this matter are therefore null and must be stricken.**

C. Motion to Strike Defendant's Notice of Removal Under FRCP 12(f)

- **FRCP 12(f) allows courts to strike filings that are redundant, immaterial, or improper.**
- **Since removal carried multiple defects, Defendant's Notice of Removal and all related filings should be stricken for their impropriety.**
- **Caterpillar Inc. v. Lewis, 519 U.S. 61, 73 (1996) confirms that procedural defects in removal must be resolved immediately.**

D. Motion for Sanctions Under FRCP 11 for Bad Faith Litigation Conduct

- **FRCP 11 allows sanctions for filings made for improper purposes, including harassment, causing unnecessary delay, or needlessly increasing litigation costs.**
- **Defendant's actions demonstrate a clear pattern of bad faith:**

- **Willfully filing an invalid removal in state court, pursuant to the woeful advantages and undue prejudice offered without perfecting jurisdiction.**
- **Engaging in willful procedural misrepresentation by failing to timely notify the state court and misrepresenting jurisdictional facts to induce unlawful federal proceedings under false pretenses by failing to timely notify the state court.**
- **Advancing proceedings in a court without jurisdiction, wasting judicial resources.**
- **Martin v. Franklin Capital Corp., 546 U.S. 132, 141 (2005)** allows courts to impose sanctions where removal was frivolous or in bad faith.
- **Plaintiff requests monetary sanctions and an order preventing further removal attempts with prejudice.**

IV. REQUEST FOR RELIEF

Plaintiff respectfully requests that this Court:

1. **Dismiss this action sua sponte under FRCP 12(h)(3) for lack of subject-matter jurisdiction.**

2. **Strike Defendant's Notice of Removal and all subsequent federal filings under FRCP 12(f).**
3. **Impose sanctions against Defense Counsel under FRCP 11 for bad faith litigation conduct.**
4. **Order that future removal attempts in this matter be barred with prejudice.**
5. **Grant any further relief the Court deems just and proper.**

Respectfully submitted,

Dated: January 29, 2025 .



**Stephen R. Chapman
Plaintiff, In Pro Per**

INDEX OF EXHIBITS

Exhibit A: State Court Ledger & Docket Entries

Proves no jurisdictional transfer exists as promulgated by the defense.

Exhibit B: State Court Order scheduling Motion to Strike/Remand hearing.

Confirmed by the enclosed (see page 1) [state] clerk endorsement

Exhibit C: Demonstrated Cause(s) of Action – Sanctions; Notice to State Court of Removal (Filed in State Court - Jan 7, 2025)

Exhibit C further demonstrates Willful Misrepresentation & Procedural Defect

- **Conflicting dates indicate an unlawful attempt to cure a jurisdictional defect.**
- **State court notice was filed 31 days after federal removal, violating 28 U.S.C. § 1446(d).**

See redlined dates in conflict:

- **(See state caption page 1)** – Caption misleadingly claims compliance with statutory deadline.
- **(See state caption page 2)** – Signature date in direct conflict with purported compliance, confirming the actual filing date **beyond the 30-day limit.**
- **(see exhibit page 4)** – [Banner] timestamp confirms the date filed in federal court (12/06/2024)

Additional Procedural Violations:

- **Failure to file concurrent substantive documents in state court**
 - (see *Federal Notice of Removal*) missing exhibits titled:
 - “Declaration of Kristin...”
 - “Declaration of Matthew...”
 - “Notice to Interested Parties...”
 - *Link to State Docket:* Confirms missing filings.

Attempt to conceal procedural defect through deceptive structuring of document.